

Office of the State Public Defender Administrative Policies

Subject: Management of the Appellate Defender Office	Policy No.: 301
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1.0 POLICY

1.1 The Office of the Appellate Defender (OAD) is separate and distinct from the Office of the State Public Defender (OPD). ~~encompasses the Appellate Defender Office (ADO) by statute. The following management structure has been established to conform with the requirements of Section 47-1-205, MCA. This structure has been in place since inception of the agency and is now formalized in policy.~~ Pursuant to 47-1-105, the Chief Appellate Defender reports directly to the Montana Public Defender Commission.

2.0 PROCEDURE

2.1 Chief Public Defender

- 2.1.1** The ~~Chief~~ Public Defender Commission shall appoint the Chief Appellate Defender who is a state employee exempt from the state classification and pay plan.
- 2.1.2** The ~~Chief~~ Public Defender Commission shall establish the qualifications, duties, and compensation ~~determine the pay~~ for the Chief Appellate Defender.
- 2.1.3** ~~The Chief Public Defender shall ultimately be responsible for budget submissions for the ADO. The ADO budget shall be monitored by the Chief Public Defender in conjunction with the Chief Appellate Defender. The Public Defender Commission shall regularly evaluate the performance of the Chief Appellate Defender.~~

2.2 Chief Appellate Defender

- 2.2.1** The Chief Appellate Defender serves at the pleasure of the Public Defender Commission.
- ~~2.2.1.2~~ **2.2.2** The Chief Appellate Defender shall have exclusive management authority in the ADO OAD in the following areas:
- ~~2.2.1.1~~ **2.2.2.1** All personnel issues, including hiring, discipline and firing of staff;
- ~~2.2.1.2~~ **2.2.2.2** Day-to-day operation of the office;
- ~~2.2.1.3~~ **2.2.2.3** Assignment of cases, including determining which cases are to be contracted out and to whom (except conflict cases);

~~2.2.1.4~~ 2.2.2.4 Review and determination of issues to be raised on appeal, including ~~the~~ issues of ineffective assistance of counsel;

~~2.2.1.5~~ 2.2.2.5 Determination ~~as to~~ whether an extraordinary writ should be filed; and

~~2.2.1.6~~ 2.2.2.6 Approval of all invoices, contractor bills (excluding conflict contractor bills), and special costs.

2.2.3 The Chief Appellate Defender shall be responsible for budgeting, reporting, and related administrative functions for the OAD. The Central Office shall provide assistance with budgeting, reporting and related administrative functions for the Chief Appellate Defender. assist in the development and monitoring of the program's budget in conjunction with the Chief Public Defender.

2.2.4 The Chief Appellate Defender shall confer with the Chief Public Defender regarding budgetary issues.

~~2.2.2~~ 2.2.5 The Chief Appellate Defender shall submit budgetary requests and reports through the Public Defender Commission.

3.0 CLOSING

Questions about this policy should be directed to the OAD~~OPD~~ at the following address:

Office of the Appellate State Public~~Defender~~
Administrative Service Division
44 West Park
Butte, MT 59701
139 N. Last Chance Gulch
P.O. Box 200145
Helena, MT 59620-0145

Phone 406-~~496-6080~~444-9505